

Major Issues Regarding the Sentencing Standards & Worksheets

VOLUNTARY SENTENCING STANDARDS

1. The Sentencing Standards are voluntary and nonappealable, however, the Sentencing Reform Act requires that they be *considered* for all worksheet offenses.

§ 12-15-35 (b) p. 13 of workbook

“The trial court shall review the sentencing standards worksheet and consider the suitability of the applicable voluntary sentencing standards established pursuant to this article. In imposing sentence, the court shall indicate on the record that the worksheet and applicable sentencing standards have been reviewed and considered.”

2. The standards apply to all covered offenses *sentenced* after the Act’s effective date – October 1, 2006.

§ 12-25-34 (a)(3) p. 13 of workbook

“The initial voluntary sentencing standards based on sentences imposed shall apply to convictions for felony offenses sentenced on or after the effective date of this act and committed before the effective date of the truth-in-sentencing standards.”

3. If the standards are followed, additional enhancement penalties, i.e. weapons, 3-mile radius, HFO statutes should *not* be imposed.

§ 12-25-34 (c) p. 13 of workbook

“Voluntary sentencing standards shall take into account and include statewide historically based sentence ranges, including all applicable statutory minimums and sentence enhancement provisions, including the Habitual Felony Offender Act, with adjustments made to reflect current sentencing policies. *No additional penalties pursuant to any sentence enhancement statute shall apply to sentences imposed based on the voluntary sentencing standards.*”

4. The initial sentencing standards, effective October 1, 2006, are not Truth-In-Sentencing standards.

WORKSHEETS

Covered offenses

- If worksheet offense, defendants charged with aiding and abetting included.
 - 1) Not attempts, conspiracy or solicitations (even attempted murder and drug crimes that carry the same punishment)
 - 2) Not drug trafficking offenses
 - 3) Not child (under the age of 12) sex offenses
 - 4) Not capital murder
 - 5) Not Mandatory Life Without Parole Offenses
 - 6) Not YO or Juvenile offenses

Hard Copies

- 1) *Both* worksheets must be completed in full and submitted to the Commission
- 2) Copies of Court orders must be attached
- 3) Should not be made a part of the court record/file since YO and JU information is included.
- 4) Court Clerk responsible for submission
- 5) If noncompliant, request that judge provide reason(s)

Prior Incarcerations

Count juveniles sentenced to DYS as prior incarceration.

Count only *unsuspended* sentence imposed of 1 year or more and less than 1 year.

Weapon

If weapon or dangerous instrument used or threatened (or possessed on entry), weapon scored even if offense pled down and not element of offense.

Compliance

Prison Recommendation - Compliance

- Must follow in-out recommendation and sentence length recommendation.
- Splits must be within both ranges – Total imposed sentence and time to serve on split.
- Reverse Splits – Compliant if within sentence range.
- Community Corrections at DOC sentence

Prison Recommendation - NonCompliance

- Noncompliant if entire sentence is suspended.
 - Noncompliant if Life sentence is imposed.
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NonPrison Recommendation - Compliance

- All of the sentence is suspended and the defendant placed on probation
- Split if sentenced to jail
- Work Release/Jail sentence
- Community Corrections as a condition of probation

Electronic Worksheets

Instructional Manual and PDF worksheet forms on Sentencing Commission website at <http://sentencingcommission.alacourt.gov>

E-Worksheet website <http://worksheets.alacourt.gov> contains interactive functionality worksheets that can be obtained from the login page by anyone that has not been designated the official worksheet preparer. Click on the hyperlink Click here for more information about E-Worksheets from the login page (in pink print below login info).

The on-line cases and worksheets ***are only available to judges and those designated*** by the judge as official preparers.

If designated preparer, go to the login page and click on the hyperlink Click here for more information about E-Worksheets. Next, click on the hyperlink Request a New User Account and complete the form.

Enter Identifying information-

After this information is received by our analyst and she verifies that you have been designated as an official preparer by the judge, you will be assigned a username and password and notified by e-mail.

Statewide YO and Juvenile delinquency adjudication information is available from this website for purposes of completing the worksheets only. This information is confidential and may not be disclosed to the general public. Unauthorized disclosure is a criminal offense.

Advantages of Using the Electronic Worksheets as Official Form

1. Copies of the worksheets are not required to be mailed to the Sentencing Commission.
2. Keeping a copy of the worksheet is not required.
3. No court order is required to be sent to the Commission.
4. Can be distributed by e-mail to the defense attorneys, prosecutors, probation officers, judge, etc.
5. PDF file can be saved to computer and e-mailed as an attachment.
6. Statewide YO and JU information is available on defendants.
7. Prior Conviction information from AOC and CJIC available (not as comprehensive as NCIC).
8. Points added automatically to obtain scores - avoiding mathematical errors.
9. Recommended sentence range automatically populated, without requiring reference to standards charts.
10. Similar information and answers for same factors are automatically populated from In/Out worksheet to Sentence Length worksheet.

11. Identifying information on defendant through NameMaster available through a mouse click.
12. Electronic PSI instantly available.
13. Entry of sentence by Clerk will populate actual sentence entered on worksheets.
14. Actual sentence and recommended sentence will be compared. If noncompliance, an automatic email will be sent to the sentencing judge requesting a reason(s) for departure.
15. Savings in time, paper, supplies and postage.

**If official electronic worksheet is completed online, do NOT send a copy of the worksheet to the Commission.*

Problem Areas with Manual Forms

- Sending in only one worksheet
- No court order attached (Clerk's responsibility)
- Premature Submission – Form sent in before sentence is final, i.e. probation hearing scheduled
- Copies sent in rather than original
- Completed Case Information not provided
- Information is illegible
- Failure to circle the most serious offense at conviction
- Failure to list additional counts and/or cases
- Failure to provide name and title of worksheet preparer
- Not including county code in casenumber